

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6049 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

=====

1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

MOTIBHAI HIRABHAI SAMAND

Versus

DIRECTOR

Appearance:

MR ND NANAVATI for Petitioner

MR DN PATEL, I/N GP for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 24/06/1999

ORAL JUDGEMENT

By this petition, the petitioner challenged the order dated 14th May, 1993, as at Annexure A, recorded by the Director Director of Agricultural Produce Markets and Rural Finance, Gandhinagar, whereby permission under section 42 of the Gujarat Agricultural Produce Markets Act, 1963 came to be rejected. Permission was refused to file criminal complaint on the ground that there was no

encroachment by the Market Committee in respect of the disputed portion of the land.

Firstly, it appears that there was no encroachment and therefore, the authority thought that there was no question of granting permission to lodge prosecution as requested, exercising powers under section 42 of the Act. Apart from that, even if there is a dispute about the same, such disputed question of fact cannot be decided in a petition exercising powers under Article 226 of the Constitution of India. On these grounds, the petition is liable to be rejected. Accordingly, it is rejected. Rule discharged with no order as to costs.

.....